DOCUMENT RESUME

ED 394 236 EC 304 756

AUTHOR	McDonald, Shauna; And Others
TITLE	The Road to Work: An Introduction to Vocational Rehabilitation. A Booklet for Youth and Adults with Disabilities, Family Members and Advocates.
INSTITUTION	PACER Center, Inc., Minneapolis, MN.
SPONS AGENCY	Rehabilitation Services Administration (ED), Washington, DC.
PUB DATE	96
NOTE	47p.
AVAILABLE FROM	PACER Center, 4826 Chicago Ave. South, Minneapolis, MN 55417-1098 ($8; quantity discount available).
PUB TYPE	Guides - Non-Classroom Use (055)
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	Civil Rights Legislation; *Disabilities; *Due Process; Educational Legislation; *Education Work Relationship; Elementary Secondary Education; Eligibility; *Federal Legislation; Financial Support; State Programs; Supported Employment; Transitional Programs; Vocational Evaluation; *Vocational Rehabilitation
IDENTIFIERS	Americans with Disabilities Act 1990; Individualized Written Rehabilitation Programs; Individuals with Disabilities Education Act; *Minnesota; *Rehabilitation Act Amendments 1992; Self Advocacy

ABSTRACT

This booklet for Minnesota young people with disabilities and their families is intended to explain vocational rehabilitation services required under the Rehabilitation Act as amended in 1992. The first section considers eligibility for vocational rehabilitation, the role of state agencies, the application process, and assessment. The next section describes the Individualized Written Rehabilitation Program (IWRP), which identifies job goals and needed services, and discusses rehabilitation technology and supported employment. The third section is on financial factors, including determination of "comparable benefits" and consumer financial participation. Next, the rehabilitation appeals procedure is detailed. A question-and-answer format addresses transition issues, such as transition services under the Individuals with Disabilities Education Act, vocational rehabilitation and transition, and self-advocacy. Finally, the main features of the Americans with Disabilities Act are identified and suggestions for making vocational rehabilitation work for the individual are offered. Appendices provide a history of legislation affecting people with disabilities, supported employment definitions, and vocational rehabilitation appeals procedures. (DB)

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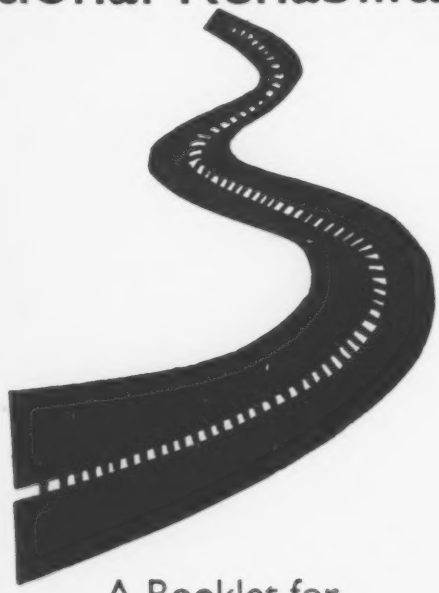
The Road to Work

An Introduction to Vocational Rehabilitation



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A Booklet for
Youth and Adults with Disabilities,
Family Members and Advocates

PACER Center, Inc.
1996

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The Road to Work

An Introduction to Vocational Rehabilitation

was prepared at PACER Center by:

Shauna McDonald, Rehabilitation Specialist, Project PRIDE
Rachel Parker, Coordinator, Project PRIDE
Marge Goldberg, Co-director
Paula F. Goldberg, Co-director
Beth Wright, Copy and Layout Editor

Cover art by Kristin Berget

Our appreciation to Deborah Leuchovius and Cathy Urbain for their contributions. Special thanks to Andy Beisner, Martha Hage, Marge Mann, and Sue Vale for their review of *The Road to Work*.

This book is funded in part by a grant from the United States Department of Education, Rehabilitation Services Administration (RSA). Views expressed in this book do not necessarily reflect the opinions of RSA.

PACER CENTER

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(612) 827-2966 Voice and TTY; (612) 827-3065 Fax

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Introduction

Are you a **young person with a disability** wondering about your career after high school?

Are you a **person with a disability** who needs help preparing for, finding or holding a job?

Are you a **family member or advocate** of a person with a disability and want to learn about legislation supporting rights to services and nondiscrimination in employment?

If you answered "yes" to any of these questions, then you need this book.

This book is about legislation and services that support your right to work. The Rehabilitation Act, amended in 1992, provides vocational rehabilitation services to persons with disabilities who are graduating and need more information to prepare for the job market or who are out of school and finding it difficult to find or maintain a job. (See page 36 in the appendix.)

The philosophical foundation of the Rehabilitation Act holds that a person with a disability, no matter how severe, is presumed able to work. The Act states:

Disability is a natural part of human experience and in no way diminishes the right of individuals to

(A) live independently;
(B) enjoy self-determination;
(C) make choices;
(D) contribute to society;
(E) pursue meaningful careers; and
(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society.

Section 2(a)(3)

It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of

(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(2) respect for the privacy, rights, and equal access (including the use of accessible formats) of the individuals;

(3) inclusion, integration, and full participation of the individuals;

(4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and

(5) support for individual and systemic advocacy and community involvement.

Title I, Section 102(c)

The Rehabilitation Act provides the financial and legal support for the adult vocational rehabilitation service systems throughout the United States. It gives directions to the states on what services their vocational rehabilitation agencies must provide and what procedures they must follow in order to comply with the law.

The Rehabilitation Act also gives financial and legal support for Centers for Independent Living. These centers are in every state. They provide services, information, and training on topics such as independent living skills, counseling, personal and systems advocacy, and other services. These centers assist persons with disabilities to live as independently as possible.

Sections 503 and 504 of the Rehabilitation Act prohibit agencies or organizations which receive federal funds from discriminating against otherwise qualified persons solely on the basis of a disability.

This book will focus primarily on vocational rehabilitation services.

Vocational Rehabilitation

Vocational Rehabilitation is an agency that provides employment-related services for adults and transition age youth with disabilities.

To use this service you must:
1) have a disability that creates a substantial impediment to employment and
2) require the service to prepare for, enter, engage in, or retain employment that meets your ability level.

Vocational Rehabilitation will assign you a counselor to determine whether or not you are eligible to receive services. Once eligibility is established, the counselor and you will jointly develop and coordinate the types of assistance you need for employment.

In Minnesota, Vocational Rehabilitation is provided by two service agencies. (In some states, these two services are combined into one agency.) **State Services for the Blind** (SSB) serves persons who are blind and visually impaired regardless of any additional disability they may have. In addition they also provide assistance for people who are unable to read print. The **Division of Rehabilitation Services** (DRS) serves all other persons who have disabilities.

The Rehabilitation Act states that, in addition to your need for the service to find or keep a job, a job must be "commensurate with your abilities and capabilities." This means that you should have a job that uses your skills and potential.

For example:

John has Cerebral Palsy; he doesn't use a communication device, and his speech is not easily understood by those who first meet him. John spent his school years in integrated education classes and has excellent grades and academic skills, particularly in mathematics and physics. After leaving school, John went to work in a sheltered workshop stamping the date on packages for shipping.

Do you think that this job takes into account John's abilities, interests, and potential?

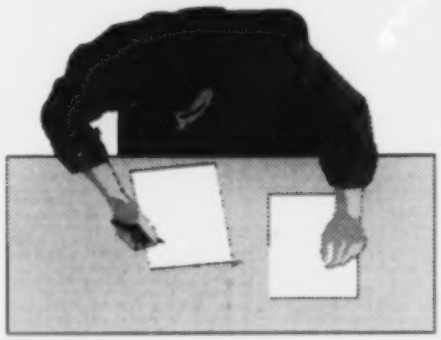
John doesn't; he would like to go to college to study to become an engineer. He has contacted the Division of Rehabilitation Services to find out what kind of services they provide.

Vocational Rehabilitation can help you with the planning and possibly all or some of the costs of reaching your job goals. If you're not sure what you want to do, talk with a vocational rehabilitation counselor, and he or she will help you identify your skills and interests. Your counselor can also help you learn about the job market and the kinds of jobs in which you might be interested. Together you will develop a plan to reach your goal of finding employment.

Once you have achieved your goal and have successfully worked for at least 60 days, the vocational rehabilitation services will end. Services can also end if you no longer want to participate, or if it becomes clear that vocational rehabilitation services cannot assist you in terms of employment.

Applying for Services

To apply for Vocational Rehabilitation you must first fill out an application. The Division of Rehabilitation Services (DRS) and State Services for the Blind (SSB) have offices all over the State. Remember that State Services for the Blind serves persons who are blind and visually impaired regardless of any additional disability they may have. The Division of Rehabilitation Services serves all other persons who have disabilities.



In Minnesota, to find the office that is closest to you, call or write to the main office of:

Division of Rehabilitation Services
Administrative Office
390 North Robert St.
St. Paul, MN 55101
612-296-5616 (voice); 612-296-3900 (TTY);
1-800-328-9095 (outside the metropolitan area)

or

State Services for the Blind
2200 University Ave. West Suite 240
St. Paul, MN 55114
612-642-0500 (voice); 612-642-0506 (TTY);
1-800-652-9000 (outside the metropolitan area).

In other states, the easiest way to find the Vocational Rehabilitation office nearest you may be to call your Directory Assistance and ask for the State Vocational Rehabilitation Agency. Disability advocacy organizations should also be able to refer you to the appropriate agency or office.

The National Rehabilitation Information Center can also refer callers to their State Vocational Rehabilitation Office. The National Rehabilitation Information Center's phone number is 1-800-346-2742.

Eligibility and Assessment

The eligibility requirements for vocational rehabilitation state that you:

1) must have a disability which constitutes or results in a substantial impediment to employment and

2) must need vocational rehabilitation services to prepare for, enter, engage in or retain gainful employment.

A counselor will carry out an assessment to determine whether you meet these requirements. Under the Rehabilitation Act, it is presumed that a person can benefit from vocational rehabilitation services, unless the agency has strong, clear evidence that he or she cannot. The assessment must focus on your strengths, likes and dislikes, and what you need to be successful. Vocational Rehabilitation will use currently existing information about you and your disability. Such information can include school, community agency, medical, and social security records and other forms of documentation.

In addition, the counselor, in determining your eligibility, will take into consideration information from you and your family and friends about your disability and how it affects your employment.

Ann has a disability and is working at a store as a cashier. Her disability is becoming worse, and she is in danger of losing her job because her disability is affecting her performance.

Jim has a disability that affects his ability to work well with others. He has just graduated from high school and is having a hard time keeping a job. He recently was fired from the pizza restaurant where he was working.

Connie has been a truck driver for many years and recently became disabled. She can no longer drive a truck but would like to take training to become a dispatcher.

The individuals in the examples above would probably be eligible to receive services. It is important to remember that every person is unique, and many different situations and circumstances can affect eligibility.

Once you apply for vocational rehabilitation services, the agency must let you know within 60 days if you are eligible. If the agency requests more time to determine your eligibility, you can agree to an extension. Vocational Rehabilitation must have clearly documented evidence to find you ineligible to receive services.

If a state is unable to serve everyone who is eligible for vocational rehabilitation, then it must establish a method to serve the needs of persons with the most severe disabilities first. This process is called "Order of Selection." In Minnesota, Division of Rehabilitation Services operates services under Order of Selection, but State Service for the Blind does not.

Determination of whether a person qualifies under Order of Selection is done by assessing limitations in seven functional areas:

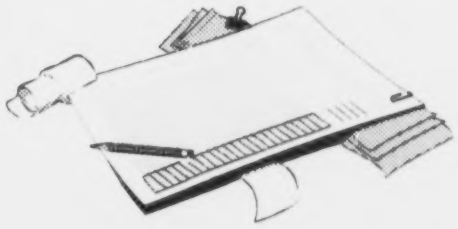
- ❒ mobility
- ❒ self direction
- ❒ self care
- ❒ interpersonal skills
- ❒ communication
- ❒ work tolerance
- ❒ work skills

The assessment also looks at whether the person needs multiple vocational rehabilitation services over an extended period of time. This assessment process could change in the future if the Division of Rehabilitation Services is unable to serve all of the people who qualify under the current system. However Order of Selection would not be changed without adequate notice and hearings.

Individualized Written Rehabilitation Program

The Individualized Written Rehabilitation Program (IWRP) is a plan designed to help you reach your employment goal. You and your counselor must identify and put in writing the job goal, the services you need, how long the services will last, and who will provide them.

This plan is for your future. You need to make sure that the goals you want to achieve and the help you need are written down on your plan. Give some thought to involving your parents, friends, and other people who have a good understanding of who you are and what you need. The more perspectives you have on your strengths, abilities, and capabilities, the more comprehensive your plan will be.



Your IWRP must include a statement, in your words, describing how you were informed about and involved in choosing your goals, objectives, services, and methods used to provide services. In addition, you and your counselor will agree on your responsibilities for carrying out your employment plan and list them on your IWRP. This plan must be agreed upon and signed by you and the counselor.

You and, if appropriate, your family member and/or advocate must be provided a copy of the IWRP. It must be in the language that you use, and if a family member or advocate is assisting you, it must be provided in the language that he or she uses.

The IWRP must be reviewed at least annually by you and your counselor, but together you can make changes whenever they are needed.

Some examples of services that could be included on an IWRP are: *Rehabilitation Technology* and *Supported Employment.*

Rehabilitation Technology

Rehabilitation Technology (as defined by the Rehabilitation Act in 1992) means: "the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation."

Rehabilitation Technology is any method or implementation of technology, including equipment, that will allow a person with disabilities to perform a job. The goal is to allow persons with disabilities to use all of their potential in any setting.

For example:

Joe is nonverbal and uses an electronic communication device to talk. He has been working with a DRS counselor to reach his job goal of becoming a receptionist. Joe and the counselor felt that Joe would be able to perform the essential functions of a receptionist with the use of rehabilitation technology. Vocational Rehabilitation paid for a rehabilitation technology assessment, which focused on ways Joe's communication device could be used with modern office practices.

Joe found a job at a hospital. The essential functions of this job are to retrieve patients' names from the computer and direct visitors to rooms. Joe is able to do this job by connecting his communication device to the computer. With this connection, Joe is able to use his communication device as a keyboard to retrieve and input information.

If rehabilitation technology addresses your needs and the barriers you are confronted with while trying to reach your employment goal, your IWRP must include a statement of the specific rehabilitation technology services to be provided.

Supported Employment

Supported employment as defined by the federal government is:

1) competitive work in an integrated setting with ongoing support services for individuals with the most severe disabilities for whom competitive work has not traditionally occurred or has been interrupted or intermittent because of their disability; or

2) transitional employment for persons who have chronic mental illness. Transitional employment services involve support of a person through a sequence of temporary jobs leading to a goal of permanent employment.

Supported employment is recognized by the Rehabilitation Act as being a viable option for employment and must be considered when determining a person's eligibility for vocational rehabilitation. It is an important component in providing more opportunities for people with severe disabilities who need ongoing assistance in learning or doing a job.

For example:

Ken has a developmental disability. He earns minimum wage working part-time at a restaurant doing food preparation with the assistance of a supported employment program. Ken's program includes a job coach who helps him understand how to do his job and provides follow-along support. Because Ken wants to eventually do this job by himself, his manager and co-workers are being trained on how to provide supports for him.

A key part of the definition of supported employment is ongoing supports. For funding purposes, it is broken into two types of supports: the **time-limited** phase and the **extended services** phase.

In general, Vocational Rehabilitation funds **time-limited** services for an agreed upon period of time which usually cannot exceed a maximum of 18 months (see page 38 in the appendix). For the **extended services** phase, Vocational Rehabilitation must identify the source of funds, which is usually the county, but may be other public or private sources of funds.

If resources needed to purchase or provide time-limited and/or extended service are currently unavailable, you should still be found eligible for vocational rehabilitation services.

The services to assist in finding and maintaining a supported employment job can occur on or off the job site, depending on your needs. The IWRP must include where the services will be provided and how many hours a week you want to work.

You will also need to consider your rate of productivity and whether you are willing to work temporarily or long term for sub-minimum wages. If you decide to work at a sub-minimum wage temporarily, you need to indicate a desired time line. Low productivity does not rule out starting at minimum wage or above, depending on the employer.

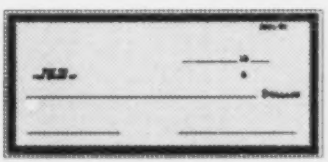
Sometimes job support is provided by job coaches hired to assist and supervise. Natural supports should be identified on the IWRP as the service being arranged if the person or guardian wants the support service to focus on developing the capacity of the co-workers and supervisors to provide on-the-job training. (See page 38 in the appendix.) This is in contrast to a traditional support service model that relies on an outside service as the primary provider of training and supervision. The provider of support services on the IWRP must know how to facilitate natural supports and agree with the other goals.

Financial Factors

Some financial factors involved in receiving services from the Division of Rehabilitation Services (DRS) and State Services for the Blind (SSB) are Comparable Benefits and Consumer Financial Participation.

Comparable Benefits

Before DRS or SSB will provide or pay for some services, they will ask you to look for Comparable Benefits. A comparable benefit is a service or financial resource other than your own that will pay for all or part of the cost of a vocational rehabilitation service. DRS and SSB can ask you to look for comparable benefits, but they cannot ask you to take out a loan to pay for these services.



Examples of comparable benefits are Medicare, Medicaid, private insurance, worker's compensation benefits, community social service agencies, other state agencies, and private or public educational training grants and scholarships.

Consumer Financial Participation

Consumer Financial Participation (CFP) means that you may have to pay for some of the services and training you need to reach your job goal. Your financial participation is determined according to your income, based on the Minnesota State Median Income. Most counselors have reported that CFP is not an issue for the majority of people applying for services. State Services for the Blind has slightly different rules on CFP, so check with your counselor about the exact rules that apply to you.

For the Division of Rehabilitation Services, if you qualify for Medical Assistance (M.A.), or if you receive Aid to Families with Dependent Children (AFDC), General Assistance (GA), or Supplemental Security Income (SSI), you will not have to participate in Consumer Financial Participation.

The following services from the Division of Rehabilitation Services are free, regardless of your income level:

- assessment for determining eligibility and vocational rehabilitation needs;
- rehabilitation counseling and guidance;
- work-related placement (job search assistance, job placement, job retention services, placement follow up).

Certain other services also do not require your financial participation. DRS and SSB policies differ, so check with your counselor.

Rehabilitation Appeals Procedure

There are many reasons to make an appeal. Let's say you apply for vocational rehabilitation services and are found eligible. As part of your vocational plan, you want Vocational Rehabilitation to provide a computer and a specific training program that you believe would enable you to reach your vocational goal.

The counselor, however, believes there is no disability-related reason for your requests. You try to reach an agreement but cannot. You decide to appeal because you are not satisfied with your counselor's final decision.

An appeal is a request for someone of a higher authority to reconsider a decision made by a rehabilitation counselor or coordinator. If you have applied for or are receiving Vocational Rehabilitation services, you have the right to appeal any decision made by the counselor or coordinator concerning your services.

1. Vocational Rehabilitation must give you written notification of your right to appeal, including information about the Client Assistance Project (CAP). This information is provided when you apply for services and when the

Individual Written Rehabilitation Plan (IWRP) is developed. These rights must be written in a language or form of communication you understand.

2. Notification of these rights must also be given to you if Vocational Rehabilitation decides you are not eligible for services or wants to suspend, reduce or terminate services being provided under your IWRP without your agreement.

3. If you appeal a change in your IWRP, the services in question must be continued if you wish, until a final decision is made, unless services were obtained through misrepresentation, fraud, collusion or criminal conduct.

(See page 39 in the appendix for details.)

If you are having difficulties with Division of Rehabilitation Services or State Services for the Blind, the Client Assistance Program (CAP) may be able to help. They provide information and assistance about the available benefits and rights of applicants and consumers of Vocational Rehabilitation. The Client Assistance Program can also advocate for applicants and consumers and assist them in their appeal. CAP may help applicants and consumers with legal and administrative services if appropriate.

Transition for Ages 14-22

In many ways the transition from school to the adult world is like taking a road trip. Knowing your destination and having a good map can help ensure that you arrive where you want to go. Transition planning is the process of defining where you want to go and identifying the best roads to take you there. It is an effort to help you reach the best possible outcomes, encourage your dreams, and find answers. Understanding your rights within transition planning will enable you to access services effectively and make informed decisions about your future.

When does transition begin? How long does it last?

The transition process is the planned movement from school to adult life. It begins typically at age 14 or grade 9 and continues until the youth receives his or her high school diploma. The active participation of families and their student with disabilities in this process is critical. Their involvement can help insure that transition plans will reflect the needs, interests and preferences of the student and that activities and training will focus on achieving the transition goals.

What are transition services?

Transition services are defined in Section 300.18 of the Individuals with Disabilities Education Act (IDEA) of 1990, formerly known as Education of the Handicapped Act (EHA) of 1975. IDEA is the primary source of federal aid to state and local school systems for instructional and support services for children with disabilities. It requires participating states to furnish all children with disabilities a free, appropriate public education in the least restrictive setting.

Transition services are defined in IDEA as:

A coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment [including supported employment], continuing and adult education, adult service, independent living, or community participation.

The coordinated set of activities must:

(1) be based upon the individual student's needs, taking into account the student's preferences and interests; and

(2) include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, the acquisition of daily living skills and functional evaluation.

The Rehabilitation Act states: "Provisions for persons with disabilities must be made before they leave high school for intermediate and long range vocational goals and for services designed to enable them to live independently." As a student with a disability, you most likely have an Individualized

Education Plan (IEP) that focuses on educational goals. In Minnesota, when you reach age 14, the IEP must start to address your plans for after high school. The IEP must focus on transition goals and services that will enable you to gain the skills you need for the adult world.

Your transition IEP must reflect your needs, taking into account your preferences, interests and goals about what you want to do after high school. It must also include statements about the needed transition services, such as vocational rehabilitation, county services, and/or post-secondary programs, that will be involved, including a statement of each of the public agencies' responsibilities and linkages. This is a critical component of transition planning. Adult services are comprised of many public and private agencies that have eligibility criteria and possible waiting lists for services. The procedures in the adult service system are very different from what you are used to in the school system. It is a good idea to encourage providers of adult services to attend your IEP transition meetings.

Who is invited to IEP Transition meetings?

The following people must be invited to attend an IEP transition meeting:

- the student;
- one or both of the student's parents;
- the student's special education teacher;
- a teacher or other representative of the general education program where the pupil is enrolled or expected to enroll;

- a representative of the school district, other than the pupil's teacher, who is qualified to provide or supervise the provision of special education services;
- for the pupil's initial evaluation, at least one member of the assessment team or a person who is knowledgeable about the evaluation procedures used and can explain the results;

Below are examples of people who may be invited at the discretion of the parent or district:

- People who know the student well such as:

  friends;
  neighbors;
  employers; and

- non-school agency representatives such as:

  Vocational Rehabilitation counselor;
  county case manager;
  health care provider;

- educator from a post secondary education program.

If the student is from a minority population, someone who is from the same minority or cultural background or who is knowledgeable concerning the racial, cultural, or disabling differences of the pupil should also be invited to attend the meeting. If the student has a behavior plan and a regulated procedure is being considered, one person on the team must be knowledgeable about ethnic and cultural issues relevant to the pupil's behavior and education.

The school district must notify you and your parents of the meeting early enough to ensure that you can attend. The notice must include the purpose of the meeting, time, date, and location. Parents must be informed that the student has been invited to attend.

Vocational rehabilitation and transition

If you intend to use vocational rehabilitation services after high school, it is a good idea to invite a vocational rehabilitation counselor to the transition IEP meetings. He or she may not provide services while you are still in school, but by having a counselor there, you can begin to know each other, making the transition to vocational rehabilitation smoother. Every public school in Minnesota is assigned a DRS counselor.

Your transition priorities

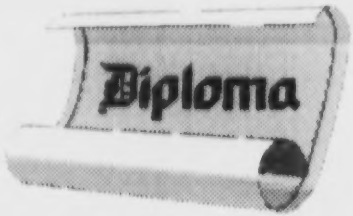
When writing your transition IEP, set priorities and focus on what is most important. The transition IEP written for this year should build on skills developed last year. Transition services and activities can and should be delivered in many settings: in academic and vocational classrooms, through extra- or co-curricular activities, at home, and throughout the community. You may need many opportunities to practice your skills in real life situations.

Remember that transition services should provide you with the necessary experience and resources to develop the skills you will need for the future.

Planning for graduation

It is important for you to think about when you may be ready to graduate from high school. If you have continuing transition needs such as skills for independent living or employment, these are sufficient reasons for you to remain in school up to age 22. These needs must be stated in the IEP and must include community based instruction, learning experiences, and other adult objectives.

If you remain in school past the typical graduation date, you may be able to participate in commencement activities without receiving your diploma. You would then receive your diploma upon completion of your transition objectives.



Self-Advocacy

If you are still in school, have you thought about playing a more active role in your IEP meeting? Can you explain your disability to others? Do you know what types of accommodations you need to find a job or seek post-secondary education? Once out of high-school you will have to be your own advocate. Why not start now? Start learning what it means to advocate for yourself, take charge of your future, and gain experience and confidence.
Advocating for yourself and using services such as vocational rehabilitation can be challenging if not sometimes intimidating. Remember, you are your own best advocate. You know better than anyone else what it is you want.

The following suggestions may help you while using vocational rehabilitation services:

❒ Write down ideas and questions before you see your counselor.

❒ Rehearse what it is you want to say before you make a phone call or visit. You can practice with a friend or use a tape recorder. This can help reduce stress and have you remember the words you want to say.

❒ Bring a friend or family member along to the meeting to have someone there to give you support.

❒ After each meeting or phone call, write down what the conversation was about and what was described. This way you have notes to review and a reference in the event that things aren't done the way you thought they would be.

❒ Consider writing a note to the counselor or teacher summarizing the meeting and your understanding of what was decided.

❒ Be honest about your likes and dislikes.

❒ Ask for clarification and help when you need it.

Always remember that you know yourself better than anyone else does.

The Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination in the workforce on the basis of disability. The ADA states that employment practices in all areas of employment, from hiring to retirement, have to be fair. It protects people with disabilities who are qualified for the job in question from discrimination based on disability. All employers of 15 or more employees are covered by this law. (See page 35 in the appendix.)

Who are "qualified individuals?"

A qualified individual is a person who has the training, experience or other necessary skills to do a particular job. Vocational rehabilitation programs can help people with disabilities obtain the education and training to become qualified for specific kinds of employment. When a person is qualified for a position, the ADA prevents employment discrimination based solely on disability.

Reasonable accommodations

There is another important factor in this employment picture. You are a qualified individual even if you need reasonable accommodations to do the job. A job accommodation is any change in the work place that helps you do your job.

Examples:

- different ways to do the job
- flexible scheduling
- reassigning job duties that are not essential
- equipment modifications
- rearranging furniture
- architectural changes
- interpreters and readers

Employers cannot disqualify you as a candidate for a job on the basis that you need accommodations because of your disability.

The employment provisions of both the Rehabilitation Act and the ADA require employers to provide reasonable accommodations for qualified individuals with disabilities when it is not an undue hardship for them. Although most accommodations are not expensive or difficult, there are times when employment accommodations may be expensive and beyond the means of an employer. At such times, state vocational rehabilitation programs may be one resource that can help eliminate the financial hardship for an employer by paying for the costs of accommodations that are beyond the employer's own resources.

For example:

Judy is blind. She has used rehabilitation programs offered by State Services for the Blind. They have helped her find a job that uses her skills as a writer. Her employer can't afford to purchase the accommodations needed for her to use a computer in her work. Her SSB counselor and her employer worked out an agreement in which her employer will provide her with a computer, and a regular printer. State Services for the Blind has agreed to help her purchase the equipment and software needed to adapt the computer to read out loud what is on the screen, a Braille printer, and the training needed to operate this equipment.

Job interviews

You should also know that the ADA makes it illegal for an employer to ask a potential employee about his or her disability on a job application or in a job interview. The employer can ask, however, how you would perform the functions of the job. In answering this question, you should tell the employer about any accommodation you would need. Communicating your need for an accommodation is important because employers have to provide reasonable accommodations only when they know that an employee needs one. You must be the one to inform your employer of your accommodation needs.

Complaints

If you think you have been discriminated against because an employer does not want to provide you with accommodations that you think the company can afford, or refuses to hire you just because of your disability and not because of a lack of job qualifications, then you may want to pursue a complaint.

You should know that the ADA does not require an employer to hire you just because you have a disability. It just prohibits employers from discriminating against you because of your disability. If another applicant is more qualified than you, the employer can legally choose to hire that person.

If you want help deciding if you have a legitimate complaint, there are many advocacy agencies and written materials that can help you learn more about your rights and responsibilities under the ADA. One place to start is your regional ADA Disability and Business Technical Assistance Center, which can be reached by calling 800-949-4232.

You can pursue an ADA complaint informally or formally. Informally, you could contact the Human Resource office of the employer directly and see if they can help you solve the problem without going outside of the company. If that is not successful, you may want to pursue a formal complaint.

You can then contact the Equal Employment Opportunity Commission (EEOC) in Minneapolis at 800-669-4000 or the Minnesota Department of Human Rights, 612-296-5665, to file a formal complaint.

You can also file a private lawsuit, but you must first file a formal complaint with the EEOC.

Vocational Rehabilitation Can Work for You

Achieving your employment goal can be challenging: you must understand and exercise your rights. If you need assistance in this process, contact a local disability organization. Another important resource is the Client Assistance Project (CAP), which was mentioned in the section on the appeals process of the Rehabilitation Act (page 18; see also page 41 in the appendix). And remember that you can always contact the Parent Training and Information Center (PTI) in your state. PACER Center is the PTI in Minnesota.

New laws affecting people with disabilities have been passed because of the persistence and hard work of many people over the years. People with disabilities, their family members, advocates, and professionals continue to inform Congress about the needs and capabilities of people with disabilities, civil rights issues, and discrimination. Great changes in society's attitudes can occur when people promote the inclusion and meaningful participation of individuals with disabilities in their communities.

Appendix

I. A Short History of Legislation Affecting People with Disabilities

II. Supported Employment Definitions

III. Vocational Rehabilitation Appeals Procedures

IV. About PACER Center

II.
A Short History Of Legislation Affecting People With Disabilities

CIVIL RIGHTS ACT - 1964

In 1964 Hubert Humphrey proposed that persons with disabilities should be a protected class along with minorities under the Civil Rights Act. In order to receive the votes needed for the act to pass, persons with disabilities were excluded.

REHABILITATION ACT - 1973

The Rehabilitation Act of 1973 has been amended several times to reflect changing attitudes and service needs. Part of the original Act, Section 504 protects the rights of persons with disabilities by prohibiting agencies or organizations which receive federal funds from discriminating against otherwise qualified individuals solely on the basis of disability.

Section 503, also part of this Act, prevents discrimination in employment at federally funded agencies.

EDUCATION OF THE HANDICAPPED (EHA) Public Law 94-142 - 1975
Later known as IDEA - 1990

The Education of the Handicapped Act of 1975 established for education the basic requirements that every school system in the nation must make provision for a free, appropriate public education for every child between the ages of birth and 21 years of age regardless of how seriously he or she may be disabled.

THE CARL PERKINS ACT - 1984

The Carl Perkins Act of 1984 states that parents must be informed of vocational education opportunities by the 9th grade and that students with disabilities shall receive:
Vocational Assessments
Special Services
Career and Transition Counseling

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) -1990
Formerly known as the EHA - 1975

The Individuals with Disabilities Education Act of 1990 is the primary source of federal aid to state and local school systems for instructional and support services for children with disabilities.

It requires participating states to furnish all youth with disabilities a free, appropriate public education in the least restrictive setting.

The Attorneys' Fee Bill under IDEA was enacted in 1990 and allows parents to have attorneys' fees reimbursed if they prevail in a hearing.

AMERICANS WITH DISABILITIES ACT (ADA) - 1990

The Americans with Disabilities Act of 1990 gives civil rights protection to individuals with disabilities. It guarantees equal opportunity for individuals with disabilities in the following areas:

Employment
Private Businesses
Agencies that serve the public
Transportation
State and Local Government Operations
Telecommunications Relay Services

Title I.	Employment
Title II.	State and Local Government Services (including public transportation)
Title III.	Public Accommodations: Private Businesses and Nonprofits (including private transportation)
Title IV.	Telecommunications: Telephone Relay Services
Title V.	Other Provisions (miscellaneous provisions, including attorneys' fees, insurance issues, etc.)

THE CIVIL RIGHTS ACT AMENDED - 1991

The Civil Rights Act was amended in 1991 and now allows victims of harassment and other intentional discriminatory acts based on sex, religion or disability to receive limited monetary damages.

THE REHABILITATION ACT AMENDED - 1992

The Rehabilitation Act was amended in 1992 to reflect a significant shift in society's attitudes toward people with disabilities. The act acknowledges that society is beginning to understand that disability is a natural part of human experience. Under this legislation persons with disabilities are presumed to be able to work. Persons with disabilities no longer have to prove that they have the potential to work or can benefit from services. If a person has a disability which constitutes or results in a significant barrier to employment and needs vocational rehabilitation services for employment, he or she is eligible.

Title I.	Vocational Rehabilitation Services
Title II.	Research and Training for National Institute on Disabilities
Title III.	Training and Demonstration Projects
Title IV.	National Council on Disability Funding and Regulations
Title V.	Rights and Advocacy
Title VI.	Employment Opportunities
Title VII.	Independent Living Services and Centers for Independent Living
Title VIII.	Special Demonstration and Training Projects

This book was written in the fall of 1995 when both Federal and State Legislators were considering many ideas on how to reorganize and improve the vocational rehabilitation service system. One of the ideas is called Workforce Consolidation. This concept incorporates all work-related programs for all job seekers (with or without disabilities) at career centers throughout the state. This combination is sometimes referred to as "one stop shops."

III.
Supported Employment Definitions

Competitive work

Hourly goals for weekly employment are determined on an individual basis and must be indicated in the IWRP. There is no minimum requirement for hours per week. The person must be paid wages on a basis consistent with those wages paid to nondisabled workers with similar job functions. Sub-minimum wage must be in accordance with the Fair Labor Standards Act.

Ongoing support

Ongoing support for funding purposes is divided into two types: time-limited phase and extended services phase. Ongoing support can include job site training, transportation, family support, or any service needed to achieve employment and maintain the supported employee in her or his employment situation. Ongoing support must include a minimum of two job site visits per month to monitor job stability except in situations where off site monitoring of job stability is more appropriate for the individual. (There are monthly criteria for off site monitoring and employer contact.)

Integrated work setting

A work situation where there is opportunity for interaction between the individual and other co-workers without disabilities or with the general public if the individual works alone or only with individuals who have disabilities.

Time-limited services

A maximum of 18 months of federally funded vocational rehabilitation services after placement in supported employment. The 18 months are based on the time the person is employed. For federally funded vocational rehabilitation services to exceed 18 months, the IWRP must indicate that such services are needed for the person to achieve job stability prior to transition to extended services.

Extended services

Ongoing support services provided once the time limited state and federally funded vocational rehabilitation services are completed. These consist of services needed to maintain the supported employee in her or his employment situation.

Natural supports

In this approach to supported employment, the school or agency helps the individual find a job. The employer, however, directly hires the person with disabilities, and the school or agency helps the company build the internal capacity to support the employee with disabilities.

IV.
Vocational Rehabilitation Appeals Procedures

These are the appeals procedures for the Division of Rehabilitation Services. State Services for the Blind procedures are slightly different, so check with SSB if you want to appeal one of their decisions.

There are two ways to appeal a decision by Vocational Rehabilitation: Informal Resolution and Formal Hearing.

You have the right to choose either or both of these procedures. *The timelines in the following procedures must be met unless you agree to an extension.*

Informal Resolution

There are two levels within the Informal Resolution:
the Supervisory Review and the Administrative Review.

You need to decide which one will work best for you.

Supervisory Review

This review is run by your counselor's supervisor. You can make a request for a Supervisory Review in person, in writing or over the phone. The counseling supervisor must make a decision within 15 working days of your request. The decision must be in writing and include the reasons for the decision and information regarding your rights to an Administrative Review.

Administrative Review

When you are not satisfied with the results of the supervisory review, or would prefer not to interact with your counselor or his or her supervisor, you can request an Administrative Review by the Director of Vocational Rehabilitation. An Administrative Review will be held within 30 calendar days from the date of your request. The Director of Vocational Rehabilitation has 20 working days from the date you agreed to a meeting to make a decision in writing. It must include the reasons for the decision, your right to a Formal Hearing, and the steps for requesting one.

Formal Hearing

A Formal Hearing (also referred to as a Fair Hearing) is held before an independent hearing officer who does not work for Vocational Rehabilitation. A Formal Hearing can be requested in writing from the Assistant Commissioner of Rehabilitation Services, Division of Rehabilitation Services. Your case must be heard no later than 45 calendar days from the date Vocational Rehabilitation received the request for a Formal Hearing. A decision must be made within 30 days of the completion of the hearings.

It is important to remember that each appeal is different. You need to assess your individual needs and then follow the appeal procedure that best suits those needs.

If you plan to appeal a decision at any one of these levels, you should contact the **Client Assistance Project** (CAP), which provides statewide advocacy to help people with disabilities access the vocational rehabilitation services they are entitled to by law. CAP's phone number in Minnesota is (612) 332-1441 (voice); (612) 332-5668 (TTY); 1 (800) 292-4150 (Toll Free/Voice and TTY).

You can call **PACER Center** for additional information and assistance; ask for Project PRIDE. The phone number is (612) 827-2966 (Voice and TTY) or Toll Free 1 (800) 537-2237.

Vocational Rehabilitation services are available to assist you in obtaining a job. It is important to know your rights within this process to insure that you will receive the services you need to obtain and keep employment.

IV.
About PACER Center

PACER Center (Parent Advocacy Coalition for Educational Rights) is an information, training and advocacy center for families throughout Minnesota who have children and adults with disabilities. PACER's mission is to improve and expand opportunities that enhance the quality of life for children and young adults with disabilities and their families. For more information, call PACER at (612) 827-2966 (voice and TTY). Families in greater Minnesota may call toll-free, 1-800-53PACER.

PACER conducts a variety of projects to assist families of children and adults with disabilities, including:

Parents Helping Parents
A parent training and information project that informs parents of children with disabilities from birth through age 21 of their rights and responsibilities in special education through parent workshops, training of trainers, individual assistance, information, and support. Parents can then participate effectively with professionals in developing their child's individual educational program.

PACER's Rehabilitation Act Information and Disability Education (Project PRIDE)
Informs and trains persons with disabilities, their family members and professionals about the Rehabilitation Act and related legislation.

Project for Parents of Children with Emotional or Behavioral Disorders
Provides information to parents related to mental health, education, social services, or corrections issues. Maintains a directory of mental health services, and provides in-person or telephone assistance, workshops, written materials, and referrals to support groups or other parents.

Count Me In Disability Awareness Program
Promotes understanding and acceptance of children with disabilities through a variety of activities, including puppet presentations about disabilities to school age children.

Let's Prevent Abuse Program
Informs children and adults about child abuse and strategies for prevention, including puppet presentations for school-age children about the prevention of child abuse.

Family Strengths: Building Resilient Families
Teaches diversity appreciation to children through the use of puppets. Includes English, Spanish, and Hmong parent resources. Develops Spanish and Hmong cultural program adaptations.

Project Youth and Project LOTS (Linking Organizations for Transition Success)
Provide assistance to youth with disabilities in transition from high school to the adult world and work to improve transition services throughout Minnesota.

Early Childhood Family Training Project
Informs families about early intervention services available for children from birth through age 5 with disabilities.

PACER Computer Resource Center and Software Lending Library
Helps parents and teachers of children with disabilities learn more about personal computers and how they can be adapted to help expand a child's horizon.

Multicultural Projects
Help African American, Latino/Hispanic, Native American, Southeast Asian, and other underrepresented parents to better understand their children's disabilities and find appropriate services to meet special needs.

Juvenile Justice Project
Provides training and resources for professionals working with youth who have disabilities and may be involved in the juvenile justice system.

Surrogate Parent Services
Provides training and assistance to persons who represent children with disabilities in the special education system when the child's parents are unknown or the child is a ward of the state.

Grandparents Program
Provides support and information that enables grandparents of children with disabilities to better understand disabilities and support their children and grandchildren.

Transition and Natural Supports in the Workplace
Identifies the information co-workers and supervisors need to provide on-the-job support to persons with moderate and severe disabilities.

Technical Assistance on Training about the Rehabilitation Act (TATRA)
Serves six regional projects that train individuals with disabilities and their families about the services and rights available under the Rehabilitation Act.

Supported Employment, Parents, Transition, and Technical Assistance (SEPT/TA)
Assists groups nationally who train parents about the needs of students who seek to work and live in the community.

Technical Assistance to Parent Projects (TAPP)
Assists 17 parent training and information centers in 14 Midwestern states in strengthening their parent training programs.

For more information on any of these activities, contact PACER Center.